

**§ 21.5134 Restrictions on paying benefits to servicepersons.**

The Department of Veterans Affairs may not pay benefits to a serviceperson (other than one enrolled in a course, courses or a program of education leading to a secondary school diploma or an equivalency certificate) unless he or she:

(a) Has completed 3 months of contributions to the fund or has made a lump-sum payment which is the equivalent of at least 3 months of contributions to the fund;

(b) Has agreed either to have a monthly deduction from his or her military pay, or has made a lump-sum contribution to the fund, or both, so that the 12 months participation requirement of § 21.5052(a) of this part will be met; and

(c) Is serving on active duty in an enlistment period subsequent to the initial period of active duty defined in § 21.5040(b)(3) of this part.

(Authority: 38 U.S.C. 3221, 3231, Pub. L. 94-502)

[45 FR 31, Jan. 2, 1980, as amended at 47 FR 51746, Nov. 17, 1982; 54 FR 49977, Dec. 4, 1989]

**§ 21.5135 Advance payments.**

The Department of Veterans Affairs shall make advance payments of educational assistance allowance at the rates determined by § 21.5138 as provided by this section.

(a) *Eligibility.* An individual is eligible for an advance payment only if:

(1) The individual will be a student in residence training on a half-time or greater basis during the period for which the advance payment is made;

(2) The individual specifically requests an advance payment; and

(3) The educational institution at which the individual is accepted or enrolled agrees to, and can satisfactorily carry out, the provisions of 38 U.S.C. 3680(d)(4)(B) and (C) and (5), pertaining to:

(i) Receipt, delivery or return of advance checks, and

(ii) Certification of delivery and enrollment.

(b) *Application.* The Department of Veterans Affairs will authorize an advance payment upon receipt of an application from an individual which in

the case of an eligible serviceperson is endorsed by the educational institution. The application will contain a certification showing the following information:

(1) The individual is eligible for educational benefits;

(2) He or she has been accepted by the institution or is eligible to continue his or her training there;

(3) He or she has notified the institution of his or her intention to attend that institution;

(4) The number of credit, clock or Carnegie hours to be pursued by the individual; and

(5) The beginning and ending dates of the enrollment period.

(c) *Secondary school certification.* In addition to the information required in paragraph (b) of this section, an enrollment certificate for an individual on active duty in a course, courses, or program of education leading to a secondary school diploma or an equivalence certificate shall specify:

(1) The program to be pursued is approved;

(2) The anticipated cost; and

(3) If the program to be pursued is other than a high school credit course, the need of the individual to pursue the course or courses.

(d) *Amount of payment.* The amount of an advance payment shall not exceed the allowance for the month or fraction of a month in which the course will begin plus the allowance for the following month.

(e) *Method of payment.* The Department of Veterans Affairs shall make the advance payment check payable to the individual. The Department of Veterans Affairs shall mail the advance payment check to the individual's educational institution for delivery to the individual upon registration. The educational institution shall not deliver the advance payment check to the individual more than 30 days in advance of the commencement or resumption of his or her program. If the educational institution does not deliver the advance payment check to the individual within 30 days after he or she commences or resumes the program, the institution shall return the check to the Department of Veterans Affairs.